

Express Mail No. EV 680 427 295 US
Appl. No. 10/789,294
Reply to Office action of May 18, 2005

REMARKS

I. Amendments to the Claims

In the Office action, claims 1-35 are identified as pending in the above-identified application, with claims 7-18, 21-23, and 25-35 currently withdrawn from consideration.

In a Response to a Restriction Requirement of February 9, 2005, claims 23 and 25-35 were cancelled, and claims 1-6, 19, 20, and 24 were identified by the Applicants as reading on a selected group of figures. Claims 36 and 37 are newly submitted herein. Therefore, claims 1-22, 24, 36, and 37 are pending in the above-identified application, with claims 7-18, 21, and 22 currently withdrawn from consideration. Claims 1 and 24 are considered generic. As such, consideration of claims 7-18, 21, and 22 would be proper upon allowance of a generic claim.

Claim 1 is amended herein to correct a typographical error. More particularly, line 7 of claim 1 is amended to delete the term "with." Claim 24 is also amended herein to correct a typographical error. More particularly, in line 11 the term "assembly" is replaced with the term "member." As such, the amendments of claims 1 and 24 are not considered narrowing amendments for reasons related to patentability.

II. Indication of Allowable Subject Matter

Applicants thank the Examiner for the indication that claims 19 and 20 contain allowable subject matter and would be allowable if appropriately rewritten in independent form, including all of the limitations of their respective base claims and any intervening claims.

III. Rejection of Claims 1-5 and 24 under 35 U.S.C. § 102

Claims 1-5 and 24 are rejected under 35 U.S.C. § 102(b) as set forth in the Office action.

A. Claims 1, 2, and 24

In the Office action, claims 1, 2, and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Piaget et al. (U.S. Pat. No. 5,336,146, hereinafter "Piaget"). Under 35 U.S.C. § 102, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. There is at least one aspect of the invention defined by independent claims 1 and 24 not taught or suggested by the Piaget reference.

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Claim 1 recites "an interconnection assembly operably coupled between the first treadle assembly and the second treadle assembly" and "at least one resistance element operably coupled with the interconnection assembly." See *lines 6-9 of claim 1*. In addition, claim 24 recites "an interconnection member operably connected with the first treadle assembly and with the second treadle assembly" and "at least one resistance element operably associated with the interconnection member." See *lines 8-10 of claim 24*. Piaget discloses a treadmill device with two side-by-side treadmills having ends pivotally supported on a frame with each treadmill having continuous treads. See Piaget, Abstract; and Figs. 1-3. In the Office action, the transmission of Piaget is characterized as an interconnection element and the motor of Piaget is characterized as a resistance element.

The motor of Piaget is arranged to drive rollers 32 and thereby drive continuous treads 34. See *Piaget, Abstract; Col. 3, ll. 44-64; and Figs. 1 and 3*. The scope of the claims 1 and 24 is not taught by Piaget. In order to illuminate the breadth and scope of original claims 1 and 24, without unnecessarily narrowing such scope, we have added new dependent claims 35 and 36. New claims 35 and 36 add the limitation of "at least one motor arranged to rotate the endless belt and the second endless belt." Addition of this limitation in the dependent claims shows that (1) the invention set forth in claims 1 and 24 do not require a motor; and (2) the interconnection assembly and the operable coupling of at least one resistance element thereto, is not the same as the motor and transmission of Piaget. The limitations of language sometimes make it difficult to appropriately claim the breadth of an invention. We believe that the addition of the new dependent claims along with the remarks set forth above are sufficient to illustrate the scope of the claims and to show that Piaget does not teach or suggest an interconnection assembly, an interconnection member, or a resistance element, as recited in claims 1 and 24.

Thus, it is respectfully submitted that, for at least the reason discussed above, Piaget does not teach or suggest all the limitations of independent claims 1 and 24. As such, claims 1 and 24 are patentable under 35 U.S.C. § 102(b) over Piaget. Claim 2 depends from and includes all of the limitations of claim 1. Thus, for at least the same reason discussed above with regard to claim 1, it is believed that claim 2 is patentable under 35 U.S.C. § 102(b) over Piaget.

Therefore, it is believed that claims 1, 2, and 24 are in form for allowance and such indication is respectfully requested.

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B. Claims 1-5 and 24

In the Office action, claims 1-5 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kuo (U.S. Pat. No. 6,461,279, hereinafter “Kuo”). Under 35 U.S.C. § 102, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. There is at least one aspect of the invention defined by independent claims 1 and 24 not taught or suggested by the Kuo reference.

As stated above, claim 1 recites “an interconnection assembly operably coupled between the first treadle assembly and the second treadle assembly” and “at least one resistance element operably coupled with the interconnection assembly.” See *lines 6-9 of claim 1*. In addition, claim 24 recites “an interconnection member operably connected with the first treadle assembly and with the second treadle assembly” and “at least one resistance element operably associated with the interconnection member.” See *lines 8-10 of claim 24*. Kuo discloses a treadmill apparatus having dual treads for conducting both jogging and stepping exercises. See Kuo, Col. 1, II. 5-10; and Fig. 1. Kuo also discloses coupling devices for coupling the treadmills together. See Kuo, Col. 3, II. 1-30; Col. 3, II. 50-Col. 4, II. 9; and Figs. 1-10 and 14-16. However, Kuo does not teach or suggest a resistance element operably connected or coupled with the coupling devices disclosed therein. As such, Kuo does not teach or suggest a resistance element operably connected or coupled with an interconnection assembly or member, as recited in claims 1 and 24.

Thus, it is respectfully submitted that, for at least the reason discussed above, Kuo does not teach or suggest all the limitations of independent claims 1 and 24. As such, claims 1 and 24 are patentable under 35 U.S.C. § 102(b) over Kuo. Claims 2-5 depend from and include all of the limitations of claim 1. Thus, for at least the same reason discussed above with regard to claim 1, it is believed that claims 2-5 are patentable under 35 U.S.C. § 102(b) over Kuo.

Therefore, it is believed that claims 1-5 and 24 are in form for allowance and such indication is respectfully requested.

IV. Rejection of Claim 6 under 35 U.S.C. § 103

In the Office action, claim 6 is rejected under 35 U.S.C. § 103 over Kuo in view of Bull (U.S. Pat. No. 5,054,770, hereinafter “Bull”).

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To establish a prima facie case of obviousness, the prior art reference, or references when combined, must teach or suggest every limitation of the claimed invention. See MPEP § 2143. Kuo, either alone or in combination with Bull, does not teach or suggest all the claim limitations of claim 6.

Claim 6 depends from and includes all the limitations of independent claim 1. As discussed above in Section III.B. of this Amendment, Kuo does not teach or suggest a resistance element operably coupled with an interconnection assembly, as recited in independent claim 1. Bull discloses an exercising machine with right and lower levers 24, 26 pivotally mounted on an upright frame member 18. See Bull, Abstract and Figs. 1-22. Bull also discloses a synchronization means 54 comprising a rocker arm 120 connected with the right and left lower levers. See Bull, Col. 11, ll. 10-15, Col. 12, ll. 51-Col. 14, ll. 31; and Figs. 1, 2, 8, and 9. However, Bull does not teach or suggest a resistance element operably coupled with the synchronization means disclosed therein. As such, Kuo, either alone or in combination with Bull, does not teach or suggest a resistance element operably coupled with an interconnection assembly, as recited in claim 1.

Thus, it is respectfully submitted that, for at least the reason discussed above, Kuo, either alone or in combination with Bull, does not teach or suggest all the limitations of independent claim 1. As such, claim 1 is patentable under 35 U.S.C. § 103(a) over Kuo in view of Bull. As discussed above, claim 6 depends from and include all of the limitations of claim 1. Thus, for at least the same reason discussed above with regard to claim 1, it is believed that claim 6 is patentable under 35 U.S.C. § 103(a) over Kuo in view of Bull.

Therefore, it is believed that claim 6 is in form for allowance and such indication is respectfully requested.

V. Conclusion

For at least the reasons discussed herein, it is believed that all pending claims are in form for allowance, and such indication is respectfully requested.

This Amendment and Response is filed in response to the Office action of May 18, 2005. A petition for a three month extension of time to respond to the May 18, 2005 Office action is hereby requested, making this Amendment and Response due on or before Friday, November 18, 2005. A check in the amount of \$1,200.00 is enclosed herewith to cover the \$1020.00 extension of time fee and the \$180.00 fee for the enclosed Information Disclosure Statement. It

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is believed no further petitions or fees are due with respect to filing of this Amendment. Should any such petitions or fees be necessary, however, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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